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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2006 64769

ANN MUDGETT, AT
2608 Ralph Avenue
Cleveland, Ohio 44109

A C C U S A T I O N

Physical Therapy Assistant License No. AT 3820

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about March 28, 1995, the Physical Therapy Board of California issued Physical Therapist Assistant License No. AT 3820 to Ann Mudgett, AT (Respondent). The Physical Therapist Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code states:

The Board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

5. Section 2660 of the Code states:

The Board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapy assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

* * *

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

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(l) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapy assistant.

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1 6. Section 2661 of the Code states, in pertinent part:

2 “A plea or verdict of guilty or a conviction following a
3 plea of nolo contendere to any offense substantially related to
4 qualifications, functions or duties of a physical therapist is deemed
5 to be a conviction within the meaning of this article.

6 The board may order the license suspended or revoked, or
7 may decline to issue a license, when the time for appeal has
8 elapsed, or the judgment of conviction has been affirmed on appeal
9 or when an order granting probation is made suspending the
10 imposition of the sentence, irrespective of a subsequent order under
11 Section 1203.4 of the Penal Code allowing the person to withdraw
12 his or her guilty plea and to enter a plea of not guilty, or setting
13 aside the verdict of guilty, or dismissing the accusation,
14 information, or indictment.”

15 7. Section 141 of the Code states:

16 (a) For any licensee holding a license issued by a Board under the jurisdiction of
17 the department, a disciplinary action taken by another state, by any agency of the federal
18 government, or by another country for any act substantially related to the practice
19 regulated by the California license, may be a ground for disciplinary action by the
20 respective state licensing Board. A certified copy of the record of the disciplinary action
21 taken against the licensee by another state, an agency of the federal government, or
22 another country shall be conclusive evidence of the events related therein.

23 (b) Nothing in this section shall preclude a Board from applying a specific
24 statutory provision in the licensing act administered by that Board that provides for
25 discipline based upon a disciplinary action taken against the licensee by another state, an
26 agency of the federal government, or another country.

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1 8. Section 2305 of the Code states:

2 The revocation, suspension, or other discipline, restriction, or limitation imposed
3 by another state upon a license or certificate to practice medicine issued by that state, or
4 the revocation, suspension, or restriction of the authority to practice medicine by any
5 agency of the federal government, that would have been grounds for discipline in
6 California of a licensee under this chapter, shall constitute grounds for disciplinary action
7 for unprofessional conduct against the licensee in this state.

8 9. Section 2661.5 of the Code states:

9 (a) In any order issued in resolution of a disciplinary proceeding before the
10 Board, the Board may request the administrative law judge to direct any licensee
11 found guilty of unprofessional conduct to pay to the Board a sum not to exceed
12 the actual and reasonable costs of the investigation and prosecution of the case.

13 (b) The costs to be assessed shall be fixed by the administrative law judge and
14 shall not in any event be increased by the Board. When the Board does not adopt a
15 proposed decision and remands the case to an administrative law judge, the
16 administrative law judge shall not increase the amount of the assessed costs
17 specified in the proposed decision.

18 (c) When the payment directed in an order for payment of costs is not made by
19 the licensee, the Board may enforce the order of payment by bringing an action in
20 any appropriate court. This right of enforcement shall be in addition to any other
21 rights the Board may have as to any licensee directed to pay costs.

22 (d) In any judicial action for the recovery of costs, proof of the Board's decision
23 shall be conclusive proof of the validity of the order of payment and the terms for
24 payment.

25 (e)(1) Except as provided in paragraph (2), the Board shall not renew or reinstate
26 the license or approval of any person who has failed to pay all of the costs ordered under
27 this section.

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1 (2) Notwithstanding paragraph (1), the Board may, in its discretion,
2 conditionally renew or reinstate for a maximum of one year the license or
3 approval of any person who demonstrates financial hardship and who enters into a
4 formal agreement with the Board to reimburse the Board within that one year
5 period for those unpaid costs.

6 (f) All costs recovered under this section shall be deposited in the Physical
7 Therapy Fund as a reimbursement in either the fiscal year in which the costs are actually
8 recovered or the previous fiscal year, as the Board may direct.

9 **FIRST CAUSE FOR DISCIPLINE**
10 **(Conviction of a Misdemeanor)**
[Bus. & Prof. Code § 2660(d) & (i) and § 2661]

11 10. Respondent is subject to disciplinary action under section 2660(d) & (i)
12 and section 2261 of the Code in that on or about July 24, 2003, Respondent was convicted of
13 misdemeanor menacing in the State of Ohio, in the Cleveland Municipal Court (Revised Code of
14 the State of Ohio, section 621.07). The circumstances are as follows:

15 11. On or about January 20, 2003, Respondent knowingly caused another
16 person to believe that Respondent would cause serious physical harm to the other person or
17 property of the other person or member of his/her family. Respondent was sentenced to pay a
18 \$250.00 fine.

19 12. Respondent is subject to disciplinary action under sections 2660(d) & (i)
20 and section 2261 of the Code in that she was convicted of misdemeanor menacing in the State of
21 Ohio.

22 **SECOND CAUSE FOR DISCIPLINE**
23 **(Discipline, Restriction, or Limitation Imposed by Another State)**
[Bus. & Prof. Code §§ 141(a), 2660(i) and 2305]

24 13. Respondent is subject to disciplinary action under sections 141(a) and
25 2660(i) in conjunction with section 2305 in that she failed to disclose a misdemeanor conviction
26 on her State of Ohio physical therapist renewal application. The circumstances are as follows:

27 14. On or about December 9, 2003, Respondent submitted to the Ohio
28 Occupational, Physical Therapy, and Athletic Trainers Board (Ohio Board) an application on

1 which she answered “NO” to the question “Have you ever been convicted of a crime including a
2 misdemeanor, felony, or military offense, whether or not adjudication was withheld?” However,
3 on August 12, 2003, Respondent was convicted of misdemeanor menacing. Respondent entered
4 into a Consent Agreement with the Ohio Board which served as a written reprimand and
5 enumerated various terms, including that Respondent would undergo a comprehensive mental
6 health evaluation.

7 15. The actions alleged by the Ohio Board and the Consent Agreement
8 constitute a violation of Code sections 141(a) and 2660(i) in conjunction with section 2305.

9 **THIRD CAUSE FOR DISCIPLINE**
10 **(Dishonesty)**
[Bus. & Prof. Code § 2660(I)]

11 16. Complainant incorporates by reference as if set forth in full at this point,
12 paragraphs 13 and 14.

13 17. Respondent’s failure to disclose her conviction on her application for
14 licensure in Ohio in response to a specific question constitutes an act of dishonesty substantially
15 related to the qualifications, functions and duties of a physical therapy assistant and thereby
16 subjects respondent to discipline pursuant to Code section 2660(I).

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Physical Therapy Board of California issue a
20 decision:

21 1. Ordering a Public Reprimand to Physical Therapist Assistant License
22 No. AT 3820, issued to Ann Mudgett.

23 2. Ordering Ann Mudgett to pay the Physical Therapy Board of California
24 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
25 Professions Code section 2661.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: August 29, 2008

ORIGINAL SIGNED BY: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

SA2007303323
Mudgett Accusation Revised.wpd